

ENTERED

October 10, 2019

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EQUISTAR CHEMICALS L.P.,

Plaintiff,

VS.

INDECK POWER EQUIPMENT COMPANY,

Defendant.

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CIVIL ACTION NO. 4:18-CV-4349

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Pending before the Court in the above referenced proceeding is Plaintiff's Motion for Partial Summary Judgment (Doc. No. 23); Defendant's Motion for Final Summary Judgment (Doc. No. 25); Judge Stacy's Memorandum and Recommendation (Doc. No. 44) that the Court deny both parties' motions; Plaintiff's Objections (Doc. No. 45); and Defendant's Objections (Doc. No. 46) to the Memorandum and Recommendation.

The Court has reviewed the case, *de novo*, and agrees with the Magistrate Judge's conclusion that genuine issue of material fact exist on whether Plaintiff Equistar is entitled to obtain and use the source code made the basis of this suit through the license provisions in Section 19(d) of the Mater Contract. Accordingly, the Court hereby

ORDERS that Plaintiff's Objections (Doc. No. 45) and Defendant's Objections (Doc. No. 46) are **OVERRULED**; the Memorandum and Recommendation (Doc. 44) is **ADOPTED**; and both Plaintiff Equistar Chemicals, L.P.'s Motion for Partial Summary Judgment (Doc. No. 23) and Defendant Indeck Power Equipment Company's Motion for Final Summary Judgment (Doc. No. 25) are **DENIED**.

This case remains on the Court's trial docket as indicated in Order at docket entry 41.

SIGNED at Houston, Texas, this 10th day of October 2019.



ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE